

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF AUGUST, 2026

PRESENT

THE HON'BLE MR. JUSTICE S.G.PANDIT

AND

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

WRIT PETITION NO. 29394 OF 2023 (S-KSAT)

BETWEEN:

SRI. CHELUVARAJ P R
S/O LATE P R RANGASWAMY,
AGED ABOUT 63 YEARS,
OCC: RETIRED COMMERCIAL
TAX INSPECTOR,
R/AT HOSMANE, 5TH CROSS,
SHIMOGA - 577 201.

...PETITIONER

(BY SRI. PRAKASH M. PATIL, ADV.)

AND:

1. STATE OF KARNATAKA
REP. BY PRINCIPAL SECRETARY
TO GOVERNMENT
DEPARTMENT OF FINANCE
VIDHANA SOUDHA,
DR. AMBEDKAR VEEDHI,
BANGALORE-560001.

Digitally signed by
NANJUNDACHARI
Location: High
Court of Karnataka

2. THE REGISTRAR
KARNATAKA LOKAYUKTHA
M. S. BUILDING,
DR. AMBEDKAR VEEDHI,
BANGALORE - 560001.

...RESPONDENTS

(BY SRI. HARISHA A.S., AGA)

THIS PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO A) ISSUE A WRIT OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT, ORDER OR DIRECTION TO QUASH THE ORDER DATED 16/03/2021 PASSED BY THE KSAT IN APPLICATION NO.1086/2017 AT ANNEXURE-A AND

QUASH THE IMPUGNED ORDER OF PENALTY DATED 13/01/2017 BEARING NO.AA.E.13/VA.TE.KA/2012 ISSUED BY THE RESPONDENTS PASSED AGAINST THE PETITIONER AT ANNEXURE-A12 AND ETC.

THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDER ON **15.07.2026** COMING ON THIS DAY, **S.G.PANDIT J.**, PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE S.G.PANDIT
AND
HON'BLE DR. JUSTICE K.MANMADHA RAO

CAV ORDER

(PER: HON'BLE MR. JUSTICE S.G.PANDIT)

The petitioner, unsuccessful applicant before the Karnataka State Administrative Tribunal at Bengaluru (for short, 'the Tribunal') is before this Court under Article 226 of the Constitution of India questioning the portion of the order dated 16.03.2021 in Application No.1086/2017 whereunder the petitioner's challenge to order of penalty dated 13.01.2017 withholding 50% of the pension permanently under Rule 214(1)(a) of KCSRs is modified reducing the punishment to that of reduction of pension by 25% permanently.

2. Facts leading to filing of the above writ petition are that, the petitioner retired on attaining the age of superannuation on 31.01.2016 as Commercial Tax

Inspector. While the petitioner was in service, by issuance of articles of charge dated 16.06.2012 (Annexure-A1) by the second respondent, departmental enquiry came to be initiated against the petitioner. The charge against the petitioner was that as a Commercial Tax Inspector, while working at Udupi, he demanded and accepted a bribe of Rs.3,000/- and returned a sum of Rs.500/- to the complainant on 11.06.2010 to reduce or to waive the professional tax of the complainant for the period between 2003 to 2006. The petitioner submitted his reply denying the charge leveled against him.

3. The Disciplinary Authority during the course of enquiry examined three witnesses, i.e. complainant, shadow witness and Investigating Officer and marked Ex.P1 to Ex.P9 to prove the charge. Whereas the petitioner DGO examined himself as DW1 and got marked Ex.D1 to Ex.D3. The Enquiry Officer submitted his report dated 16.11.2015 holding that the Disciplinary Authority has proved the charge against the petitioner. The Upa Lokayuktha forwarded the enquiry report along with its

recommendation to impose punishment of dismissal from service. The petitioner was issued second show cause notice dated 14.12.2015 along with enquiry report and recommendation of the Upa Lokayuktha.

4. The petitioner submitted his reply dated 27.06.2016 to the second show cause notice. Thereafter, the first respondent – Disciplinary Authority by order dated 13.01.2017, imposed penalty of reduction of 50% of the pension permanently, since the petitioner had retired from service as on the date of imposing penalty. Questioning the said order of penalty, the petitioner was before the Tribunal in the above stated Application. The Tribunal under impugned order dated 16.03.2021 modified the order of penalty to that of reducing pension by 25% permanently instead of reduction of pension by 50% permanently as imposed by the Disciplinary Authority. Contending that the Tribunal ought to have quashed the order of penalty in its entirety, the petitioner is before this Court in this writ petition.

5. Heard learned counsel Sri.Prakash M. Patil for petitioner and learned Additional Government Advocate Sri.Harish.A.S., for respondents. Perused the entire writ petition papers.

6. Learned counsel Sri.Prakash M. Patil for the petitioner would contend that there is no material or concrete evidence to prove the charge against the petitioner, as such, the Tribunal ought to have quashed the order of penalty dated 13.01.2017 in its entirety. Learned counsel would submit that the Enquiry Officer failed to appreciate the defence of the petitioner that the amount received by the petitioner on 11.06.2010 was towards the dues of professional tax of the complainant and not bribe amount. He submits that on 11.06.2010, the complainant gave Rs.3,000/- to the petitioner and the petitioner returned Rs.500/- as the petitioner collected Rs.2,000/- towards professional tax and Rs.500/- towards penalty from the complainant. Learned counsel for the petitioner would further submit that PW1 complainant and

PW2 shadow witness have not fully supported the case of the Disciplinary Authority.

7. Further, learned counsel for the petitioner points out that PW1 admitted that he had received notices dated 28.09.2010 and 10.11.2010, i.e. Ex.D1 and Ex.D2 towards the dues of the professional tax. When the complainant was in arrears of professional tax, the amount received by the petitioner as stated by him was towards the arrears of professional tax and penalty. Furthermore, learned counsel for the petitioner would submit that the petitioner was acquitted of the charges leveled against him under Sections 7 and 13(1)(d) and 13(2) of the Prevention of Corruption Act, 1988 on the same set of facts and evidence by the learned Principal District and Sessions Judge, Udupi in Spl.Case.No.14/2011.

8. Learned counsel would submit that the Disciplinary Authority failed to take note of the acquittal in the criminal case while imposing the penalty. Furthermore, learned counsel for the petitioner would contend that the impugned order of penalty dated 13.01.2017 is passed by

In-charge Officer and he contends that no statutory power could be exercised by an In-charge Officer. Learned counsel for the petitioner would submit that only on the ground that In-charge Officer could not perform statutory function, the impugned order dated 13.01.2017 warrants interference.

9. Learned Additional Government Advocate Sri.A.S.Harish would submit that the Enquiry Officer on appreciation of the entire material on record has held that the charges leveled against the petitioner are proved and the Tribunal having come to the conclusion that the finding of the Enquiry Officer is based on the oral and documentary evidence and finding no error on the part of the Enquiry Officer could not have substituted the punishment by reducing the same from withholding of 50% of pension permanently to 25% permanently.

10. Learned Additional Government Advocate would submit that the acquittal in criminal case is on the benefit of doubt and the petitioner – DGO has not denied the

receipt of the amount. Further, learned Additional Government Advocate would submit that PW1-complainant and PW2 – shadow witness have supported the case of the Disciplinary Authority fully and as the finding of the Enquiry Officer is based on material on record, no further interference is warranted. Learned Additional Government Advocate referring to evidence on record would submit that if at all the petitioner was to receive the arrears towards professional tax, he could have received the said arrears in his office and there was no occasion for the petitioner to call the complainant near a hotel at Kidiyur. Thus, he would pray for dismissal of the writ petition.

11. Having heard the learned counsel appearing for the parties and on perusal of the entire writ petition papers, the only point which falls for consideration is as to,

Whether the impugned order passed by the Tribunal warrants interference?

12. Answer to the above point would be in the negative for the following reasons:

It is a settled position of law that scope of interference under Article 226 of the Constitution of India in a matter arising from departmental enquiry proceedings is very limited. Only if it is established that the order of penalty is imposed by an incompetent authority or that the penalty is the result of total violation of principles of natural justice or if one establishes that it is a case of 'no evidence', this Court could interfere with the departmental proceedings under Article 226 of the Constitution of India. Moreover, this Court under Article 226 of the Constitution of India would not sit as an Appellate Authority to appreciate the evidence afresh. Furthermore, in departmental proceedings, no strict rules of evidence would be applicable and charges could be proved on the principles of preponderance of probabilities. Whereas, in criminal proceedings, on the same incident and on the same set of evidence, charges are to be proved by applying strict rules of evidence.

13. Keeping in mind the above principles, the contention of the parties are to be appreciated in the instant case.

14. The charge against the petitioner in terms of articles of charge dated 16.06.2012 (Annexure-A1) reads as follows:

"That you, Sri. T.R.Cheluvaraju, (here in after referred to as Delinquent Government Official, in short DGO), while working as the Commercial Tax Inspector, Commercial Tax Department, Udupi demanded and accepted a bribe of Rs.3,000/- and thereafter returned Rs.500/- to the complainant on 11.06.2010 from complainant Sri.Prabhakara Nayak S/o Late Sri Annaiah Nayak, residing near Lakshmi Venkateshwara Temple, Puttur, Udupi District to reduce or to waive the Professional Tax of the complainant for the period in between 2003 to 2006, that is for doing an official act, and thereby you failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of a Government Servant and thus you are guilty of misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules, 1966."

In sum and substance, the charge against the petitioner is that while working as Commercial Tax Inspector, Udupi, the petitioner demanded and accepted a bribe of Rs.3,000/- and thereafter returned Rs.500/- to the complainant on 11.06.2010 towards official favour to reduce or to waive the

professional tax of the complainant for the period between 2003 to 2006.

15. On behalf of the Disciplinary Authority, PW1 to PW3 are examined and documents Ex.P1 to Ex.P9 are marked to prove the charge. Whereas, petitioner – DGO examined himself as DW1 and marked three documents as Ex.D1 to Ex.D3.

16. As stated above, this Court would not sit as an Appellate Authority to re-appreciate the evidence on record. However, this Court could go into evidence only to find out whether the finding of the Enquiry Officer is based on evidence or there is no evidence to support the findings of the Enquiry Officer. The petitioner-DGO has not denied the receipt of amount and his defence is that the amount received was towards arrears of professional tax. However, on appreciation of the entire evidence and material on record, the Enquiry Officer has recorded a finding that the amount received by the petitioner – DGO was the bribe amount. The evidence of PW1 and PW2

entirely supports the case of the Disciplinary Authority. It is an admitted fact that on receiving the amount, the petitioner – DGO has not raised any receipt for having received the same towards arrears of professional tax.

17. We have gone through the judgment in Spl.Case.No.14/2011 passed by the Principal District and Sessions Judge, Udupi and on going through the same, it is seen that the acquittal of the petitioner for the charged under the provisions of the 1988 Act is on the benefit of doubt. Therefore, the same would not assist the petitioner in any manner.

18. Learned counsel for the petitioner mainly contended that the impugned order dated 13.01.2017 is by an In-charge Under Secretary and as the Under Secretary was functioning as In-charge, he could not have discharged statutory function to impose penalty on the petitioner. Insofar as petitioner is concerned, respondent No.1 is the Disciplinary Authority. Disciplinary Authority shall take the decision and not the Under Secretary. The

Under Secretary of the concerned department is only a communicator/authenticator of the decision of the competent authority. An executive order that would be passed by the Government could be traced to Article 162 of the Constitution of India. When Executive order is passed by the State, the same shall be passed in the name and order of the Governor of a State. In terms of Rule 19 of the Karnataka Government (Transaction of Business) Rules, 1977, orders and instruments made and executed in the name of the Governor of the Karnataka shall be authenticated by the signature of a Principal Secretary or a Secretary or an Additional Secretary or a Special Secretary or a Joint Secretary or a Deputy Secretary or an Under Secretary or a Desk Officer or any other Officer holding these posts on ex-officio basis or by such other officer as may be specially empowered in that behalf by the Governor. The said Executive order is signed and communicated/authenticated on behalf of the Governor of the State by the Under Secretary or other Officers as prescribed under Rule 19 of 1977 Rules. Mere

communication/authentication of an order would not fall or would not come within the meaning of 'decision making'. Therefore, if the communication/authentication of the Executive order is by an In-charge officer, it would not make any difference or vitiate any proceedings.

19. The Tribunal under impugned order in its discretion was of the opinion that, penalty of withholding 50% of the pension permanently is very harsh and disproportionate to the material on record and reduced the penalty from reduction of pension by 50% permanently to that of reduction of pension by 25% permanently. When the Tribunal has reduced the punishment by substituting the penalty by coming to the conclusion that the finding is based on oral and documentary evidence and that they do not find any error on the part of the Enquiry Officer, that itself is major relief to the petitioner.

20. For the reasons recorded above, we are of the considered view that there is no merit in any of the

contentions raised by the petitioner. Accordingly, the following:

ORDER

Writ petition stands dismissed and order dated 16.03.2021 in Application No.1086/2017 passed by the Tribunal is confirmed.

**Sd/-
(S.G.PANDIT)
JUDGE**

**Sd/-
(DR.K.MANMADHA RAO)
JUDGE**

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CT:bms